

C. Remarks

- 1) Amendments to Claims 6 and 8 are believed to traverse Examiner's objections thereto.
- 2) The Kilkenny reference teaches a bracket made up of two slidably interconnected retainer legs 16/18 used for supporting an electrically conductive line (not a 'structure' as alleged by the Examiner). Kilkenny teaches that a bracket may be installed between two other pre-existing brackets by interconnecting the retainer legs about the bus bar and bolting the bracket to the support. In this arrangement both the support 14 and the bus bar 12 are fixed in position before the bracket is formed. This clearly teaches away from Applicant's method of supplying a removable anchor support for attaching an anchor to a wall and then bringing a frame of some sort or another up to the wall and attaching it thereto by means comprising the anchor. That is, Kilkenny teaches a method of connecting two fixed objects; Applicant teaches connecting two objects by modifying one of them (e.g., by attaching an anchor to a wall) and then moving the other object into abutting relation with the first.

Moreover, the claimed step of positioning the retainer assembly by pushing it downward over the top of a masonry wall is clearly not taught by Kilkenny who notes, in his paragraph [0035] that "the assembly 10 can retain a conductive line 12 in virtually any plane. This allows great freedom by the user of the device 10 to locate the conductive line 12 near numerous different supports 14. For example, the support 14 can be any structure to which a user of the device 10 wishes to attach the conductive line 12, including, but not limited to, walls, posts, equipment, machines, and the like." Thus, a teaching of a downward motion can not be supported by a reference that refuses to accept a limitation as to which direction is down.

With regard to the Ting reference, the elements cited by the Examiner are firmly set in a slab. Ting thus teaches away from the claimed method that comprises a step of "(e) disconnecting the anchor retainer from the anchor and removing the retainer".

As the CAFC has noted, "it is insufficient that the prior art disclosed the components of the

patented device, either separately or used in other combinations; there must be some teaching, suggestion, or incentive to make the combination made by the inventor." Northern Telecom, Inc. v. Datapoint Corp., 15 USPQ2d 1321, 1323 (CAFC 1990). Thus the Examiner "cannot pick and choose among the individual elements of assorted prior art references to recreate the claimed invention," but "has the burden to show some teaching or suggestion in the references to support their use in the particular claimed combination." Smithkline Diagnostics Inc. v. Helena Laboratories Corp., 8 USPQ2d 1468, 1475 (CAFC 1988). The Examiner has not met this burden. In this case, the Examiner has not even found all the components of Applicant's device.

These amendments are arguments are believed to traverse the Examiner's rejection of Claims 6 and 8 under 35 USC §103(a) over Franklin and Delgado in view of Kilkenny and Ting.

3) Applicant is unable to comment on the Earhardt and Kirhuff references that were mentioned in subject Office Action. All that the Examiner supplied was the names of the inventors. No patent numbers or copies of non-patent literature were supplied. A search of the USPTO's database failed to turn up any relevant patents issued since 1976 by an inventor having either of these names.

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